

**STATE OF MAINE
SUPREME JUDICIAL COURT
NOTICE AND OPPORTUNITY FOR COMMENT
ON**

**Proposed Amendments to
Maine Rules of Probate Procedure**

Comments Due on or Before Friday April 30, 2010

The Supreme Judicial Court is considering a proposed amendment to Rule 91 of the Maine Rules of Probate Procedure. The proposed amendment and an explanatory Advisory Note follow. The Rule 91 amendment has been developed to address points that are causing administrative confusion in development of records on appeal.

The Court invites comments on the proposed amendment. Any comments should be filed with the Clerk of the Supreme Judicial Court by **Friday April 30, 2010**. Comments in writing should be mailed to the address below. Comments sent via e-mail may be in the text of an e-mail or in an attachment to an e-mail, addressed to: lawcourt.clerk@maine.gov. If the comments are in an attachment, the attachment must be a document in one of the following formats: plain text (.txt), Microsoft Word 1997-2004 (.doc), rich text format (.rtf), or portable document format (.pdf). The Clerk's Office will acknowledge receipt of the e-mail via a reply e-mail.

All comments must contain (1) the name, mailing address, and telephone number of the individual submitting the comments; and (2) the name, mailing address, and main telephone number of the organization (if any) on whose behalf the comments are submitted. An individual need not be an attorney to submit comments on behalf of an organization.

Dated: April 12, 2010.

Maine Supreme Judicial Court
205 Newbury Street, Room 139
Portland, Maine 04101-4125
(207) 822-4146

DRAFT for Comment 4-12-10 DRAFT

STATE OF MAINE
SUPREME JUDICIAL COURT

AMENDMENTS TO THE
MAINE RULES OF PROBATE PROCEDURE

2010 Me. Rules ---

Effective: ----- 2010

All of the Justices concurring therein, the following amendment to the Maine Rules of Probate Procedure is hereby adopted to be effective on the date indicated above. The specific rules amendment is stated below. To aid in understanding of the amendments, an Advisory Note appears after the text of the amendment. The Advisory Note states the reason for recommending the amendment, but it is not part of the amendments adopted by the Court.

1. Rule 91 of the Maine Rules of Probate Procedure is amended to read as follows:

**RULE 91. PROCEEDINGS IN FORMA PAUPERIS FOR WAIVER OF
PAYMENT OF FEES OR COSTS**

Rule 91 of the Maine Rules of Civil Procedure governs procedure in all proceedings in the Probate Courts, provided that initial payment of service costs and payment of the cost of a transcript produced by a court reporter for an appeal from an order in a proceeding for the appointment of a guardian of a minor or the termination of parental rights in an adoption proceeding shall be an administrative expense of the Probate Court, and the Register of Probate shall take any action appropriate to obtain reimbursement of waived ~~filing~~ fees and ~~service~~ costs paid.

Advisory Note

The heading of Rule 91 is amended, consistent with a recent change in M.R. Civ. P. 91. Rule 91 is also amended simultaneously with amendment of M.R. Civ. P. 91(f). The new rule clarifies that when a hearing is recorded by a court reporter, and an appealing party qualifies for a waiver of fees and costs in a proceeding for

the appointment of a guardian for a minor or for termination of parental rights as part of an adoption, the Probate Court bears the cost for the transcript on appeal. The Advisory Notes to the concurrent amendment to M.R. Civ. P. 91 discuss this amendment in greater detail.

2. This amendment shall be effective on -----.

Dated: _____, 2010

FOR THE COURT¹

LEIGH I. SAUFLEY
Chief Justice

DONALD G. ALEXANDER
JON D. LEVY
WARREN M. SILVER
ANDREW M. MEAD
ELLEN A. GORMAN
JOSEPH M. JABAR
Associate Justice

¹ This Rules Amendment Order is approved after conference of the Court, all Justices concurring therein.